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COMMITTEE ON SUBORDINATE LEGISLATION

(SEVENTH LOK SABHA)

FIRST REPORT

(Presented on the 15-7-80)

LOK SABHA SECRETARIAT
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Corrigenda to the 1st Report of the Committee on Subordinate Legislation (Seventh Lok Sabha) presented to the House on the 15th July, 1980

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COMPOSITION OF THE COMMITTEE ON SUBORDINATE LEGISLATION (1980-81)

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15. Shri R. S. Sparrow.

SECRETARIAT

Shri H. L. Malhotra—Senior Legislative Committee Officer.

REPORT

I

INTRODUCTION

I, the Chairman of the Committee on Subordinate Legislation having been authorised by the Committee to present the Report on their behalf, present this their First Report.

2. The matters covered by this Report were considered and approved by the Committee (1979-80) at their sittings held on the 16th June, 2nd and 27th July, 1979. The Report, however, could not be presented to the Sixth Lok Sabha due to its dissolution on the 22nd August, 1979.

3. The Report was again considered and adopted by the Committee (1980-81) at their second sitting held on the 9th July, 1980 as the first sitting of the Committee held on the 12th June, 1980 was confined to Chairman's Inaugural Address. The Minutes of the sittings, which form part of the Report, are appended to it.

4. A statement showing the summary of recommendations/observations of the Committee is also appended to the Report.

II

THE ANDAMANS, LAKSHADWEEP HARBOUR WORKS ASSISTANT MARINE ENGINEER (FLOATILA) RECRUITMENT RULES, 1975 (G.S.R. 2522 OF 1975).

5. During the course of examination of the Schedule to the Andamans, Lakshadweep Harbour Works Assistant Marine Engineer (Floatila) Recruitment Rules, 1975 it was noticed that although the rules were in respect of a gazetted post recruitment to which should invariably be made in consultation with the Union Public Service Commission yet the entry in column 10 of the Schedule appended thereto indicated that the Union Public Service Commission was to be consulted only in case of recruitment by transfer on deputation or promotion and not in the case of direct recruitment. Similarly according to the entry under column 13 of the Schedule the Union Public Service Commission was to be consulted if an employee of a State Government or Major Port Trust was selected.

6. The matter was taken up with the Ministry of Shipping and Transport (Transport Wing).

7. In their reply dated the 8th May, 1977, the Ministry intimated that the Rules have been suitably amended.

8. The Committee note with satisfaction that, on being pointed out, the Ministry of Shipping and Transport (Transport Wing) have amended columns 10 and 13 of the Schedule to the Andamans, Laksnadweep Harbour Works Assistant Marine Engineer (Floatila) Recruitment Rules, 1975, so as to indicate therein that the Union Public Service Commission would invariably be consulted while making recruitment.

III

THE LAW OFFICERS (CONDITIONS OF SERVICE) AMENDMENT RULES, 1977 (G.S.R. 1319 OF 1977)

9. Rule 9 of the Law Officers (Conditions of Service) Rules, 1972, as inserted by the Law Officers (Conditions of Service) Amendment Rules, 1977 relating to 'Power to relax' reads as under:

> "Power to relax.—Where the Central Government is of the opinion that it is necessary or expedient so to do, it may, by order, relax any of the provisions of these rules."

10. The Ministry of Law, Justice and Company Affairs (Department of Legal Affairs) who were asked to state whether they had any objection to amend rule 9 so as to provide therein for recording of reasons in writing before relaxing any provision of the Rules in any case have stated as follows in their reply dated the 13th September, 1978:—

> ".....there is no difficulty in assigning reasons for relaxation granted under this rule. In fact, the reasons are recorded on the file before any provision of the rules is relaxed."

11. The Committee note that the Ministry of Law, Justice and Company Affairs (Department of Legal Affairs) have no difficulty in providing for recording of reasons before granting any relaxation under Rule 9 of the Law Officers (Conditions of Service) Rules, 1972 as inserted by the Law Officers (Conditions of Service) Amendment Rules, 1977 relating to 'Power to relax'. The Committee therefore, desire the Ministry to amend the aforesaid Rule so as to provide therein for recording of reasons in writing before relaxing any provision of the rules in any case.

IV

(i) THE BORDER ROADS ENGINEERING SERVICE GROUP 'A' RULES, 1977 (G.S.R. 1554 OF 1977); and

(ii) THE BORDER ROADS ENGINEERING SERVICE GROUP 'B' RULES, 1977 (G.S.R. 1055 OF 1977).

12. Rule 12 of each of the above Rules reads as under:—

"Other Matters.—In all matters not specifically provided for in these rules, persons appointed to the Service shall be governed by such rules or orders as may be issued by the Government from time to time."

12A. It was felt that all matters not specifically provided for in the rules should also be governed by statutory rules, either by issuing a new set of rules or by amendment of these rules, rather than by issue of executive orders.

13. The Ministry of Shipping and Transport (Border Roads Development Board) with whom the matter was taken up, in their reply dated the 15th July, 1978, have stated as under:—

"As regards deletion of Rule 12, as suggested by the Committee, it may be mentioned that the Union Public Service Commission to whom the matter regarding recruitment rules was referred for approval advised *vide* their letter No. F.3(21)/4/76-RR dated the 21st April, 1976, that the rules for the Central Engineering Service (Roads) issued by the Ministry of Shipping and Transport could be adopted as a model for framing the Recruitment Rules for GREF Service. Accordingly, the Recruitment Rules for the Border Roads Engineering Service have been formulated on the pattern of the rules for the Central Engineering Service (Roads), which contain an identical provision and with the specific approval of the Union Public Service Commission. The approval of the Department of Personnel and Administrative Reforms and also the Ministry of Law was obtained before notifying the rules."

14. In the opinion of the Committee the contention of the Ministry of Shipping and Transport (Transport Wing) in regard to deletion of rule 12 of (i) The Border Roads Engineering Service Group 'A' Rules, 1977; and (ii) The Border Roads Engineering Service Group 'B' Rules, 1977, is not tenable.

15. In this connection, the Committee would like to draw Ministry's attention to their earlier recommendation made in para 37 of Fifth Report (Sixth Lok Sabha) which deals with the Central Engineering Service (Roads) Rules wherein the Committee had desired the Ministry to omit rule 27 of those Rules which dealt with 'other matters' not specifically provided for in the rules.

16. In this case also, the Committee desire the Ministry to omit rule 12 of both the aforesaid rules and recommend that matters not specifically provided for in the rules regarding appointment of officers to the services should not be regulated by executive orders but should be governed by statutory rules whether by way of an amendment to the existing rules or alternatively by framing new rules.

V

THE STAFF SELECTION COMMISSION (GROUP 'C' POSTS OF STATISTICAL ASSISTANT/ECONOMIC INVESTIGATOR) RECRUITMENT RULES, 1978 (G.S.R. 510 OF 1978).

17. Rule 5 of the Staff Selection Commission (Group 'C' Posts of Statistical Assistant/Economic Investigator) Recruitment Rules, 1978, published under G.S.R. 510 in the Gazette of India, Part II, Section 3(i), dated the 22nd April, 1978, reads as under:—

> "Power to relax.—Where the Central Government is of opinion that it is necessary or expedient so to do, it may by order, for reasons to be recorded in writing, relax any of the provisions of these rules with respect to any class or category of persons *or post.*"

18. Normally, the power to relax is confined to a class or category of persons and not to 'post' The Ministry of Home Affairs (Department of Personnel and Administrative Reforms) who were requested to state the reasons for departure from the normal practice in the above case, have in their reply dated the 22nd March, 1979 stated as follows:—

> ".....there was no particular reason for inclusion of the word 'post' in Rule 5 of the Staff Selection Commission (Group 'C' Post of Statistical Assistant/Economic Investigator) Recruitment Rules, 1978 (G.S.R. 510 of 1978). This Department have, therefore, no objection to amending the relevant rules in order to delete the word in question."

19. The Committee note with satisfaction that, on being pointed out, the Department of Personnel and Administrative Reforms have agreed to delete the words 'or post' from rule 5 of the Staff Selection Commission (Group 'C' Posts of Statistical Assistant/Economic Investigator) Recruitment Rules, 1978 regarding 'power to relax' in order to confine the relaxation provision of rules to a class or category of persons. The Committee desire the Ministry to issue the necessary amendment to the above rules at an early date.

VI

ATTACHMENT OF RELEVANT EXTRACTS FROM ORIGINAL RULES TO AMENDING RULES WHEN LAID ON THE TABLE

20. The Committee on Subordinate Legislation in para 81 of their Sixth Report (First Lok Sabha) presented to the House on the 22nd December, 1956, recommended as under:—

> 'When new Rules amending the original Rules are laid on the Table of the House, the relevant extracts from original Rules.'

21. The above recommendation of the Committee has since been accepted by the Government and the Department of Parliamentary Affairs have brought it to the notice of all Ministries/Departments of the Government of India for their compliance *vide* their O.M. Nos. 5(6)V/L-57-PA, dated the 13th February, 1958 and F.32(7)/75-R&C, dated the 6th October, 1976.

22. It was, however, noticed during the course of examination of the amending notifications (*Vide* List at Appendix II) issued by the Ministry of Shipping and Transport (Transport Wing) that the relevant extracts from the original rules were not attached thereto when laid on the Table of the House.

23. The matter was taken up with the Ministry who were asked to state:—

(i) Whether they were aware of the recommendation of the Committee in this regard;

(ii) the reasons for not complying with the same in the cases under reference; and

(iii) the steps taken to avoid recurrence of such a lapse in future.

24. The replies dated the 10th and 13th July and 12th September, 1978 from the Ministry in this regard revealed that they were aware of the recommendation of the Committee made in 1956. The Ministry, however, expressed their regret for the omission and assured compliance with the recommendation of the Committee in future.

25. Although the Ministry of Shipping and Transport (Transport Wing) have expressed their regret and assured compliance with the recommendation of the Committee in future, the Committee are not happy over the lapse on the part of the Ministry inasmuch as while

laying on the Table of the House the ten amending Rules, the Ministry did not care to attach the extracts from original rules in spite of the fact that the Committee's earlier recommendation on the subject had not only once but twice been brought to the notice of all Ministries of the Government of India by the Department of Parliamentary Affairs—first in 1958 and again in 1976. The Committee are all the more distressed to note that the Ministry's reply does not reveal the reasons for not following the recommendation of the Committee in this respect particularly when the Ministry have themselves stated that they were aware of the recommendation of the Committee made in 1956. The Committee desire the Ministry to follow their recommendations scrupulously henceforth

VII

IMPLEMENTATION OF RECOMMENDATIONS

(i) IMPLEMENTATION OF RECOMMENDATION CONTAINED IN PARA 70 OF THE TWENTIETH REPORT OF THE COMMITTEE ON SUBORDINATE LEGISLATION (FIFTH LOK SABHA) REGARDING RETROSPECTIVE EFFECT TO THE ORDERS FRAMED BY MINISTRY OF RAILWAYS (RAILBOARD) UNDER ARTICLE 309 OF THE CONSTITUTION

26. In para 10 of their Second Report (Fourth Lok Sabha) presented to the House on the 14th December, 1968, the Committee on Subordinate Legislation had recommended as under:—

> ".....all rules should be published before the date of their enforcement or they should be enforced from the date of their publication. The Ministries/Departments should take appropriate steps to ensure the publication of rules before they come into force. However, if, in any particular case, the rules have to be given retrospective effect in view of any unavoidable circumstances, a clarification should be given either by way of an explanation in the rules or in the form of a foot-note to the relevant rules to the effect that no one will be adversely affected as a result of retrospective effect being given to such rules."

27. In their subsequent Reports the Committee have time and again stressed the above recommendation. While examining the orders framed by the Ministry of Railways (Railway Board) mentioned in Appendix III, it was noticed that retrospective effect had been given to the Orders but no explanatory memorandum to the effect that no one would be adversely affected as a result of retrospective effect to the rules was appended to these orders.

28. Not satisfied with the explanation of the Ministry of Railways, the Committee in para 70 of their Twentieth Report (Fifth Lok Sabha) observed as under:—

> "The Committee have repeatedly stressed that if in a particular case the rules have to be given retrospective effect in view of any unavoidable circumstances, a clarification should be given to the effect that no one will be adversely affected as a result of retrospective effect being given to such rules. The Committee are distressed to note that despite their repeated recommendation, the requisite clarification was not given in as many as 29 cases listed in Appendix* III. The Committee take a serious view of non-compliance with an oft-repeated recommendation of the Committee in such a large number of cases. The Committee restress their earlier recommendation made in para 10 of their Second Report (Fourth Lok Sabha) and desire the Department of Parliamentary Affairs to bring the recommendation to the notice of all the Ministries/ Departments of Government of India for strict compliance in future."

29. In their action taken note dated the 31st August, 1977, the Ministry of Railways (Railway Board) stated as under:

> ".....the position regarding items 3 to 13 of Appendix* III of the above report is as under:—
>
> (i) Items 3 to 7:
>
> The requisite explanatory memorandum have been published under G.S.R. Nos. 936 to 940 of the gazette dated 31st August, 1974.
>
> (ii) Items 8 to 13:
>
> The explanatory memorandum was duly attached to the Notification when it was sent to the press. However, when it was found that the same had not been published along with the Notification, the explanatory memoranda were again sent to the Press for Publication under Ministry of Railways letters Nos. 71/E(GR)I/15/5 dated 28-3-1974 and No. 71|E(GR)I|18|6 dated 31-10-1973. The Government of India Press is being separately addressed to intimate the G.S.R. Nos. under which these Memoranda were

*Appendix III.

notified. The same will be intimated to the Lok Sabha Sectt. as soon as a reply is received from the Govt. of India Press.

30. In their subsequent note dated the 9th March, 1978, the Ministry stated as under:

"..... the Government of India Press have since intimated that explanatory memoranda to items 12 and 13 of Appendix III of the above report were published by them under G.S.R. Nos. 1245 and 1246 of the Gazette Notification dated 17-11-1973. In regard to items 8 to 11, the Press have, however, intimated that the explanatory memoranda sent to them *vide* Ministry of Railways letter No. 71/E(GR)-I/15/5 dated 28-8-1974 were not published as the same were not received by them.

The Lok Sabha Secretariat are aware, the above explanatory Memoranda are regarding some minor amendments made to the recruitment rules on the basis of similar changes made in the examination rules for the Engineering Services Examination, 72. Since the examination rules were notified on 19-2-1972, the amendments to the rules were also given retrospective effect from that date. The retrospective effect to the rules does not prejudicially affect the right of any person. More than six years have passed since the amendments in question were first notified. The Ministry of Railways, therefore, feel that no useful purpose will be served in asking the Press to publish the Explanatory Memoranda to the above amendments at this late stage. In future, however, every care will be taken to see that explanatory memoranda are duly published by the Press along with the Rules whenever they are given retrospective effect."

31. The Committee note that the Ministry of Railways (Railway Board) have since published the Explanatory Memorandum to the 7 Order mentioned at S. Nos. 3 to 7 and 12 to 13 of Appendix III. Regarding the remaining 4 Orders at S. Nos. 8 to 11 of the Appendix III, the Committee, with reluctance, are inclined to accept the explanation of the Ministry that no purpose would be served in publishing the Explanatory Memorandum at this stage as the amendments involved are of minor character and as also the Ministry have certified that retrospective effect given to the rules/orders did not

prejudicially affect the right of any person. The Committee, however, desire the Ministry to be careful in future in such matters.

(ii) IMPLEMENTATION OF RECOMMENDATION CONTAINED IN PARA 70 OF THE TWENTIETH REPORT OF THE COMMITTEE ON SUBORDINATE LEGISLATION (FIFTH LOK SABHA) REGARDING GIVING OF RETROSPECTIVE EFFECT TO THE ORDERS' FRAMED BY THE MINISTRY OF HOME AFFAIRS (DEPARTMENT OF PERSONNEL AND ADMINISTRATIVE REFORMS) UNDER ARTICLE 309 OF THE CONSTITUTION.

32. In para 10 of their Second Report (Fourth Lok Sabha) presented to the House on the 14th December, 1968, the Committee on Subordinate Legislation had recommended as follows:—

> ".....all rules should be published before the date of their enforcement or they should be enforced from the dated of their publication. The Ministries/Departments should take appropriate steps to ensure the publication of rules before they come into force. However, if, in any particular case, the rules have to be given retrospective effect in view of any unavoidable circumstances, a clarification should be given either by way of an explanation in the rules or in the form of a foot-note to the relevant rules to the effect that no one will be adversely affected as a result of retrospective effect being given to such rules."

33. The above recommendation has time and again been stressed by the Committee in their subsequent Reports. While examining the Redeployment of Surplus Staff against vacancies in the Central Service and Posts, Class III (Amendment) Rules, 1972 alongwith other rules, it was noticed that retrospective effect had been given to the rules and no explanatory memorandum to the effect that no one would be adversely affected as a result of retrospective effect was appended to the rules.

34. Not being satisfied with the explanation of the Ministries concerned, the Committee in para 70 of their Twentieth Report (Fifth Lok Sabha) observed as under:—

> "The Committee have repeatedly stressed that if in a particular case the rules have to be given retrospective effect in view of any unavoidable circumstances, a clarification should be given to the effect that no one will be adversely affected as a result of retrospective effect being given to such rules. The Committee are distressed to note that

despite their repeated recommendation, the requisite clarification was not given in as many as 29 cases listed in Appendix III. The Committee take a serious view of non-compliance with an of-repeated recommendation of the Committee in such a large number of cases. The Committee restress their earlier recommendation made in para 10 of their Second Report (Fourth Lok Sabha) and desire the Department of Parliamentary Affairs to bring this recommendation to the notice of all the Ministries/Departments of Government of India for strict compliance in future."

35. In their action taken note dated the 2nd December, 1977, the Ministry of Home Affairs (Department of Personnel and Administrative Reforms) have stated as under:—

"..... the recommendation of the Committee on Subordinate Legislation contained in para 10 of their Second Report (Fourth Lok Sabha) stipulates that whenever, in any particular case the rules have to be given retrospective effect in view of any unavoidable circumstances, a clarification should be given either by way of an explanation in the rules or in the form of a foot-note to the relevant rules to the effect that no one will be adversely affected as a result of retrospective effect being given to such rules. The above recommendation was not complied with at the time of issue of this Department's Notification No. 1/4/72-CS III dated the 2nd May, 1972, which had been given a retrospective effect from the 19th June, 1967, and is now required to be complied with.

With the introduction of the Scheme for redeployment of Surplus Staff *vide* Ministry of Home Affairs Office Memorandum No. 3/27/65-CS. III, dated the 25th February, 1966 a ban was imposed on the filling up of all Ministerial non-gazetted direct recruitment posts (to be filled otherwise than through the annual competitive examinations held by the Union Public Service Commission) to the effect that no recruitment to such posts shall be resorted to unless a certificate is obtained from the Central (Surplus Staff) Cell to the effect that the Cell has no suitable persons to offer for the posts to be filled in. Subsequently, this ban was extended *vide*, Ministry of Home Affairs O.M. No. 1/4/72-CS. III dated the 19th June, 1967, to the filling up of *all posts* in Government Departments

(Ministerial or non-Ministerial) to be filled whether by promotion or by direct recruitment in Class III as also in Class II in the categories in which there were surpluses in the Central (Surplus Staff) Cell. In accordance with the executive instructions contained in this Office Memorandum, a large number of surplus persons on the rolls of the Central (Surplus Staff) Cell were redeployed against the promotional posts in various Government Departments/Offices. As a result thereof, some of the employees of the Departments/Offices, wherein the surplus persons had been redeployed against the promotional posts, might have been denied appointment to such promotional posts and thus adversely affected in this regard. In order to make the executive instructions contained in the Ministry of Home Affairs O.M. No. 1/4/72-CS. III, dated the 19th June, 1967 specifically free from any controversy and to provide a statutory cover to the redeployment of surplus staff against the promotional posts which had been affected during the 19th June, 1967, and the 2nd May, 1978, it was decided that the words "direct recruitment" appearing in clause (i) of Rule 3 of the Ministry of Home Affairs O.M. No. 1/2/66-CC/CS III, dated the 30th November, 1967 (Redeployment of surplus staff against vacancies in the Central Civil Services and Posts, Class III, Rules, 1967) should be deleted with retrospective effect from the 19th June, 1967, *i.e.* the date on which the Ministry of Home Affairs O.M. No. 1/4/67-CS. III was issued. Accordingly, this Department's Notification No. 1/4/72-CS. III, dated the 2nd May, 1972 was published in the Gazette of India, Part II, Section 3(i) as G.S.R. 669 of 1972, giving it retrospective effect from the 19th June, 1967.

From the position explained above it will be observed that, by virtue of the Office Memorandum of the 19th June, 1967 cited above, surplus persons became entitled to be appointed against promotional posts in the Central Civil Services and Posts Class III which would otherwise have gone to Departmental persons. Thus factually, since the 19th June, 1967 placement of surplus persons against promotional posts was also undertaken by this Department and there could have been no departure from the orders contained in this Office Memorandum but to make a categorical statement now, that no persons will be ad-

versely affected, may not be quite appropriate and may be misconstrued.

In the light of the position explained above, Lok Sabha Secretariat are requested to exempt this Deparment at this belated stage from the publication of the 'Explanatory Memorandum' to the Ministry of Home Affairs Notification No. 1/4/72-CS. III, dated the 2nd May, 1972, certifying therein that nobody was adversely affected as a result of retrospective effect given to that Notification."

36. In view of the explanation furnished by the Department of Personnel and Administrative Reforms regarding giving of retrospective effect to the 'Orders' framed by the Department under Article 309 of the Constitution, the Committee reluctantly do not like to insist on the publication of the Explanatory Memorandum at this belated stage. The Committee, however, desire the Department to follow scrupulously their earlier recommendation made in para 10 of Second Report (Fourth Lok Sabha) in such cases in future.

(iii) IMPLEMENTATION OF RECOMMENDATION CONTAINED IN PARA 70 OF THE TWENTIETH REPORT OF THE COMMITTEE ON SUBORDINATE LEGISLATION (FIFTH LOK SABHA) REGARDING GIVING OF RETROSPECTIVE EFFECT TO THE 'ORDERS' FRAMED UNDER ARTICLE 309 OF THE CONSTITUTION [THE INDIAN FOREIGN SERVICE (RECRUITMENT, CADRE, SENIORITY AND PROMOTION) (AMENDMENT) RULES, 1973 (G.S.R. 211 OF 1973)].

37. In para 10 of their Second Report (Fourth Lok Sabha), presented to the House on the 14th December, 1968, the Committee on Subordinate Legislation recommended as under:—

"..... all rules should be published before the date of their enforcement or they should be enforced from the date of their publication. The Ministries/Departments should take appropriate steps to ensure the publication of rules before they come into force. However, if, in any particular case, the rules have to be given retrospective effect in view of any unavoidable circumstances, a clarification should be given either by way of an explanation in the rules or in the form of a foot-note to the relevant rules to the effect that no one will be adversely affected as a result of retrospective effect being given to such rules."

38. In their subsequent Reports, the Committee have time and again stressed the above recommendation. While examining the Indian Foreign Services (Recruitment, Cadre Seniority and Promotion) Amendment Rules, 1973, along with other Orders, it was noticed that retrospective effect had been given to the Order but no Explanatory Memorandum to the effect that no one would be adversely affected as a result of retrospective effect was appended to the Orders.

39. The matter was taken up with the Ministry of External Affairs who did not send any reply.

40. The Committee in para 70 of their Twentieth Report (Fifth Lok Sabha) presented to the House on the 23rd November, 1976, observed as under:—

> "The Committee have repeatedly stressed that if in a particular case the rules have to be given retrospective effect in view of any unavoidable circumstances, a clarification should be given to the effect that no one will be adversely affected as a result of retrospective effect being given to such rules. The Committee are distressed to note that despite their repeated recommendation, the requisite clarification was not given in as many as 29 cases listed in Appendix III. The Committee take a serious view of non-compliance with an oft-repeated recommendation of the Committee in such a large number of cases. The Committee restress their earlier recommendation made in para 10 of their Second Report (Fourth Lok Sabha) and desire the Department of Parliamentary Affairs to bring this recommendation to the notice of all the Ministries/Departments of Government of India for strict compliance in future."

41. The Ministry of External Affairs in their reply dated the 27th December, 1976, stated as under:—

> "While forwarding to the Press this Ministry's Notification No. 32/GA/73 dated 16th February, 1973 for publication in the Official Gazette of India, this Ministry had attached with the said Notification the necessary Explanatory Memorandum containing reasons for giving retrospective effect to the amendment to the IFS (RCSP) Rules, 1961. The Notification was published as G.S.R. 211 in the Gazette of India dated 3rd March, 1973, but unfortunately

the Press omitted the Explanatory Memorandum while publishing the Notification. The circumstances under which the Press failed to publish the Explanatory Memorandum along with the Notification were enquired from the Press, but no reply was received from them. The position was explained to the Committee on Subordinate Legislation of the Rajya Sabha. No further communication had been received from that Secretariat after that.

In view of the position explained above, it is felt that no corrigendum need be issued now at this stage. However, Lok Sabha Secretariat are requested to advise whether they still consider it necessary to publish the corrigendum to the Notification. Further action shall be taken on receipt of reply from the Lok Sabha Secretariat."

42. The Ministry of External Affairs were advised to publish the explanatory memorandum to the Rules as an amendment to the Rules as an amendment to the notification or republish it with the explanatory memorandum.

43. The Ministry in their reply dated the 6th April, 1977, stated as under:—

".....that the matter was referred to the Ministry of Law, Justice and Company Affairs (Legislative Department), who have stated as follows:—

'The Lok Sabha Secretariat has advised the Ministry of External Affairs to either publish the Explanatory Memorandum to the IFS (ROSP) Amendment Rules, 1973, as an amendment to the notification or republish it with the Explanatory Memorandum. It is felt that both the courses suggested by the Lok Sabha Secretariat cannot be adopted. The Explanatory Memorandum is not part of the amendment rules as such it cannot be issued as an amendment to the notification. It is also not possible to republish the amendment with the Explanatory Memorandum as the notification is an amendment rules and the amendments made by those rules have become part of the principal rules. As such, the only course open is to publish the Explanatory Memorandum as a corrigendum as suggested by the Ministry of External Affairs. Even this may be objected to by

the Committee on Subordinate Legislation as the Corrigendum will be issued as late as four years since the publication of the amendment rules and on this ground this cannot be published as a corrigendum. Publication of a corrigendum will only complete the record to give effect to the advice of the Lok Sabha Secretariat. It is, therefore, suggested that the Ministry of External Affairs may kindly confirm from the Lok Sabha Secretariat whether it will be in order to issue the corrigendum. In case they agree the file may be sent to us along with a gazette copy in which the notification is published.'

In view of the above observation of the Ministry of Law, it is felt that the Explanatory Memorandum may be published in the Official Gazette of India as a corrigendum although considerable time has elapsed since the publication of this Ministry's Notification No. 32/GA/73 dated the 16th February, 1973. Lok Sabha Secretariat may kindly agree to the publication of the Explanatory Memorandum as Corrigendum."

44. The Committee note that the Ministry of External Affairs have agreed to publish the Explanatory Memorandum as a corrigendum explaining the reasons for giving retrospective effect to the Indian Foreign Service (Recruitment, Cadre Seniority and Promotion) Amendment Rules, 1973, framed under Article 309 of the Constitution. The Committee desire the Ministry to notify the necessary corrigendum in the Gazette at an early date. The Committee also desire the Ministry to be careful in such matters in future.

MOOL CHAND DAGA,

Chairman,

Committee on Subordinate Legislation.

NEW DELHI;

July 9, 1980.

APPENDIX I

(*Vide* para 4 of the Report)

Summary of the Main Recommendations/Observations made by the Committee

S. No.	Para	Summary
1	2	3
1	8	The Committee note with satisfaction that, on being pointed out, the Ministry of Shipping and Transport (Transport Wing) have amended columns 10 and 13 of the Schedule to the Andamans, Lakshadweep Harbour Works Assistant Marine Engineer (Floatila) Recruitment Rules. 1975, so as to indicate therein that the Union Public Service Commission would invariably be consulted while making recruitment.
2	11	The Committee note that the Ministry of Law, Justice and Company Affairs (Department of Legal Affairs) have no difficulty in providing for recording of reasons before granting any relaxation under Rule 9 of the Law Officers (Conditions of Service) Rules, 1972 as inserted by the Law Officers (Conditions of Service) Amendment Rules, 1977 relating to 'Power to relax'. The Committee, therefore, desire the Ministry to amend the aforesaid Rule so as to provide therein for recording of reasons in writing before relaxing any provision of the rules in any case.
3(i)	14	In the opinion of the Committee the contention of the Ministry of Shipping and Transport (Transport Wing) in regard to deletion of rule 12 of (i) the Border Roads Engineering Service Group 'A' Rules, 1977; and (ii) The Border Roads

1	2	3
		Engineering Service Group 'B' Rules. 1977, is not tenable.
3(ii)	15	In this connection, the Committee would like to draw Ministry's attention to their earlier recommendation made in para 37 of Fifth Report (Sixth Lok Sabha) which deals with the Central Engineering Service (Roads) Rules wherein the Committee had desired the Ministry to omit rule 27 of those rules which dealt with 'other matters' not specifically provided for in the rules.
3(iii)	16	In this case also, the Committee desire the Ministry to omit rule 12 of both the aforesaid rules and recommend that matters not specifically provided for in the rules regarding appointment of officers to the services should not be regulated by Executive Orders but should be governed by statutory rules whether by way of an amendment to the existing rules or alternatively by framing new rules.
4	19	The Committee note with satisfaction that, on being pointed out, the Department of Personnel and Administrative Reforms have agreed to delete the words 'or post' from rule 5 of the Staff Selection Commission (Group 'C' Posts of Statistical Assistant/Economic Investigator) Recruitment Rules, 1978 regarding 'power to relax' in order to confine the relaxation provision of rules to a class or category of persons. The Committee desire the Ministry to issue the necessary amendment to the above rules at an early date.
5	25	Although the Ministry of Shipping and Transport (Transport Wing) have expressed their regret and assured compliance with the recommendations of the Committee in future, the Committee are not happy over the lapse on the part of the Ministry inasmuch as while laying on the Table of the House the ten amending rules,

1	2	3
		the Ministry did not care to attach the extracts from original rules in spite of the fact that the Committee's earlier recommendation on the subject had not only once but twice been brought to the notice of all Ministries of the Government of India by the Department of Parliamentary Affairs—first in 1958 and again in 1976. The Committee are all the more distressed to note that the Ministry's reply does not reveal the reasons for not following the recommendation of the Committee in this respect particularly when the Ministry have themselves stated that they were aware of the recommendation of the Committee made in 1956. The Committee desire the Ministry to follow their recommendations scrupulously henceforth.
6	31	The Committee note that the Ministry of Railways (Railway Board) have since published the Explanatory Memorandum to the 7 Orders mentioned at S. Nos. 3 to 7 and 12 to 13 of Appendix III. Regarding the remaining 4 Orders at S. Nos. 8 to 11 of Appendix III, the Committee, with reluctance, are inclined to accept the explanation of the Ministry that no purpose would be served in publishing the Explanatory Memorandum at this stage as the amendments involved are of minor character and as also the Ministry have certified that retrospective effect given to the rules/orders did not prejudicially affect the right of any person. The Committee, however, desire the Ministry to be careful in future in such matters.
7	36	In view of the explanation furnished by the Department of Personnel and Administrative Reforms regarding giving of retrospective effect to the 'Orders' framed by the Department under Article 309 of the Constitution, the Committee reluctantly do not like to insist on the publication of the Explanatory Memorandum at this

1	2	3
		belated stage. The Committee, however, desire the Department to follow scrupulously their earlier recommendation made in para 10 of Second Report (Fourth Lok Sabha) in such cases in future.
8	44	The Committee note that the Ministry of External Affairs have agreed to publish the Explanatory Memorandum as a corrigendum explaining the reasons for giving retrospective effect to the Indian Foreign Service (Recruitment, Cadre Seniority and Promotion) Amendment Rules, 1973, framed under Article 309 of the Constitution. The Committee desire the Ministry to notify the necessary corrigendum in the Gazette at an early date. The Committee also desire the Ministry to be careful in such matters in future.

APPENDIX II

(*Vide* para 22 of the Report)

The amending notifications issued by the Ministry of Shipping and Transport (Transport Wing) to which relevant extracts from the original rules were not attached when laid on the Table of the House.

S. No.	Name of the 'Order'	Date on which Laid
1	2	3
1.	The Delhi Motor Vehicles (3rd Amendment) Rules, 1977 (SECE-3 (79) 76-TPT 1783 dt. 18-2-77 (Delhi).	8-8-77
2.	The Board of Trustees of the Port of Madras (Payment of Fees and Allowances to Trustes) Amendment Rules, 1976 (G.S.R. 231/1977).	29-6-77
3.	The Board of Trustees of the Port of Bombay (Payment of Fees and Allowances to Trustees) Amendment Rules, 1976 (G.S.R. 232/1977).	29-6-77
4.	The Board of Trustees of the Port of Calcutta (Payment of Fees and Allowances to Trustees) Amendment Rules, 1977 (G.S.R. 233/1977).	29-6-77
5.	The Board of Trustees of the Port of Madras (Procedure at Board Meetings) Amendment Rules, 1976 (G.S.R. 1480/1976).	29-6-77
6.	The Board of Trustees of the Port of Calcutta (procedure at Board Meetings) Amendment Rules, 1976 (G.S.R. 1481/1976).	29-6-77
7.	The Shipping Development Fund Committee (General) Amendment Rules, 1976 (G.S.R. 1602/1976).	22-6-77
8.	The Shipping Development Fund Committee (General) (Second Amendment) Rules, 1976 (G.S.R. 388/1977).	22-6-77

1	2	3
9.	The Shipping Development Fund Committee (General) Amendment Rules, 1977 (G.S.R. 389/1977).	1-8-77
10.	The Motor Vehicles (National Permits) Amendment Rules, 1976 (G.S.R. 29/1977). . . .	22-6-77

APPENDIX III

(*Vide* paras 27, 29 and 31 of the Report)

Extract from Appendix III of the Twentieth Report (Fifth Lok Sabha)

List of 'Orders' framed by Ministry of Railways under proviso to Article 309 of the Constitution to which retrospective effect was given.

S. No.	Name of Order
1	2
1—2	.....
3.	The Indian Railway Service of Engineers Recruitment (2nd Amdt.) Rules, 1971 (G.S.R. 593 of 1971)
4.	The Indian Railway Service of Electrical Engineers Recruitment (2nd Amdt.) Rules, 1971 (G.S.R. 594 of 1971).
5.	The Indian Railway Service of Signal Engineers Recruitment (2nd Amdt.) Rules, 1971 (G.S.R. 595 of 1971).
6.	The Indian Railway Stores Service Rectt. (2nd Amdt.) Rules, 1971 (G.S.R. 596 of 1971).
7.	The Indian Railway Service of Mechanical Engingeers Rectt. (2nd Amdt.) Rules, 1971 (G.S.R. 597 of 1971).
8.	Indian Railway Service of Engineers Rectt. (Amdt.) Rules, 1972 (G.S.R. 722 of 1972).
9.	Indian Railway Service of Signal Engineers Rectt. (Amendment) Rules, 1972 (G.S.R. 723 of 1972).
10.	Indian Railway Service of Electrical Engineers Rectt. (Amdt.) Rules, 1972 (G.S.R. 724 of 1972).
11.	Indian Railway Stores Service Rectt. (Amdt.) Rules, 1972 (G.S.R. 725 of 1972).

1	2
12.	Indian Railway Traffic Service Rectt. (2nd Amdt.) Rules, 1972 (G.S.R. 1640 of 1972).
13.	Indian Railway Accounts Service (Rectt.) Third Amendment Rules, 1972 (G.S.R. 1641 of 1972).
14—29	.....

MINUTES

XXIX

MINUTES OF THE THIRTY-NINTH SITTING OF THE COMMITEE ON SUBORDINATE LEGISLATION (SIXTH LOK SABHA)

(1979-80)

The Committee met on Saturday, the 16th June, 1979 from 11.00 to 12.00 hours.

PRESENT

Shri K. Mallanna—*Chairman*

MEMBERS

2. Shri Yashwant Borole
3. Shri Lalu Prasad
4. Shri Govind Ram Miri
5. Shri K. S. Narayana
6. Shri Ram Murti
7. Dr. Bhagwan Dass Rathor
8. Shri Madhav Prasad Tripathi
9. Shri Chandradeo Prasad Verma
10. Shri Ramji Lal Yadav

SECRETARIAT

1. ShriY. Sahai—*Chief Legislative Committee Officer.*
2. Shri S. N. Khanna—*Senior Legislative Committee Officer.*

2. The Chairman welcomed the members of the Committee on Subordinate Legislation and explained to them broadly the scope, functions and working of the Committee (Annexure).

3. At the request of the members it was decided that copies of the Reports presented by the preceding Committee during their term 1978-79 be supplied to them.

4. The Committee decided to hold their next sitting on Monday, the 2nd July, 1979 at 11.00 hours.

The Committee then adjourned.

ANNEXURE

(*Vide* para 2 of the Minutes)

ADDRESS BY THE CHAIRMAN TO THE MEMBERS OF THE COMMITTEE ON SUBORDINATE LEGISLATION

(1979-80)

(16th June, 1979)

Friends,

It is indeed a matter of pleasure for me to welcome you to this first sitting of the newly constituted Committee on Subordinate Legislation of Lok Sabha which consists of eminent members representing different shades of opinion.

2. With the Welfare State concept digging deeper roots, there is hardly any walk of life where the imprint of the Government's effort to better the lot of the common man is not seen. But, who provides the legal sanction to the Government to undertake all such activities? It is the Parliament who clothes the Government with such authority through various enactments. In addition, Parliament has to exercise a consistent check on the activities of the Executive to keep them ever vigilant to meet the unforeseen challenges as well to implement the planned programmes. The responsibilities are all the more greater on Lok Sabha because the Council of Ministers is responsible to it. To exercise this check, Parliament has various weapons in its armoury like Questions, Adjournment Motions, Calling Attentions, Discussions under various rules, Debates on various policy statements made by Government on the floor of the House and the voting of Demands for Grants of Ministries and Departments of Government of India. This effort is further supplemented by the various standing Committees of the House.

3. I will now revert to the legislative functions of Parliament to enact various laws. As the activities of Government expand, it has naturally to bring forward legislative measures in larger number for proper administration. Day-by-day quantum of legislation is increasing.

Within the constraints of the time available, even if the Parliament so desires, it does not have the time to provide for each and

every eventuality. Moreover, there are certain matters which require specialised technical knowledge. Local conditions are sometimes extremely important which are better known to the people on the spot and not to the Parliament. In such cases delegation of legislative power becomes 'inevitable and indispensible' although it has certain inherent risks more so if the Parliamentary statute tends to be skeletal containing only the barest general principles ignoring matters of substance which may have a vital bearing on the life of the citizens. Sometimes it may happen that the power delegated might not be concisely and precisely defined and the Executive may tend to stretch them to such limits as might not have been the intention of Parliament or the delegated powers may be so loosely defined that the areas they are intended to cover may not be clearly known.

4. Here comes the need for our Committee on Subordinate Legislation toward off such risks. Our primary function is to check the assumption of arbitrary powers by the Executive through the rules framed by them in exercise of delegated powers. The Committee insists that all rules|regulations framed by the delegated authority must be laid before each House of Parliament so that the House in its supervisory capacity, if it so likes, may amend or dify the rules or even annul them. All Bills which delegate rule-making power to the Executive contain the following provision which has been approved by the Committee:—

> "Every rule made by the Central Government under this Act shall be laid, as soon as may be after it is made, before each House of Parliament, while it is in session, for a total period of thirty days which may be comprised in one session or in two or more successive sessions, and if before the expiry of the session immediately following the session or the successive sessions aforesaid, both Houses agree in making any modification to the rule or both Houses agree that the rule should not be made, the rule shall thereafter have effect only in such modified form or be of no effect, as the case may be; so, however, that any such modification or annulment shall be without prejudice to the validity of anything previously done under that rule."

With that end in view, all Bills introduced in Lok Sabha or transmitted by Rajya Sabha are scrutinised by the Committee to ensure that they contain the requisite provision for laying and modification of rules on the lines approved by the Committee. In its Fourteenth Report Fifth Lok Sabha), the Committee went a step

further by recommending that the provisions for laying and modification of rules should be incorporated even in old Acts providing for rule-making power, which did not contain such a provision.

5. Direction 103A of the Directions by the Speaker provides that the Speaker may also refer the Bills containing provisions for delegation of legislative powers to the Committee. When a Bill is so referred, the Committee examines *inter alia* the extent of the powers sought to be delegated or where powers are sought to be delegated to State Governments or other authorities for bringing into operation any subsidiary provisions or to make any further rules or regulations, the necessity of such delegation as well as the extent and manner in which such powers shall be exercised by the subordinate authorities. If the Committee comes to the conclusion that the provisions contained in the Bill delegating legislative powers should be annulled wholly or partly, or should be amended in any respect, it may make a report to the House before the Bill is taken up for consideration.

6. The principles governing the examination of 'Orders' by the Committee are broadly defined in Rule 320 of the Rules of Procedure and Conduct of Business in Lok Sabha. However, the Committee has over the years of its valuable experience and expertise, further evolved some additional guiding principles. To mention some of these—

(i) A well-known maxim is that no fee can be levied under a rule unless the parent statute expressly authorises therefor. The Committee, however, often came across cases where fees had been levied under the rules without an express authorisation therefor in the parent law. The Committee has invariably insisted for the deletion of such provisions or alternatively desired Government to obtain an express power in this behalf from the Parliament through an amendment of the relevant Act.

(ii) Often it becomes necessary in compliance with the provisions of the law, that the power of search and seizure is vested in the Executive. In such cases, the Committee has been insisting not only on specifying the minimum rank of the Government Officer empowered to exercise such a power but also on providing of safeguards like presence of witnesses, preparation of inventories and giving a copy threof to the persons concerned.

(iii) Another maxim is that a delegate cannot sub-delegate his legislative power unless there is an express authorisation to that effect in the parent law.

When new problems arise, the committee has to think of appropriate solutions of such problems and evolve some new guidelines and this is a continuous process.

7. The root cause of abuse of subordinate or delegated legislation lies in unfettered, unguided discretionary powers conferred on the Executive. The primary function of the Committee, therefore, is to ensure that adequate safeguards are provided in the rule itself against the probable abuse of such powers. The Committee had in the past made valuable recommendations to this end. Some of the broad principles underlying those recommendations can be summed up as follows:—

(i) As far as possible, guidelines/criteria to be followed by the authority vested with the discretionary powers should be laid down in the rules.

(ii) In cases where the authority concerned deviates from a norm, it should be required to record in writing the reasons for such deviation.

(iii) In order that the persons similarly placed are not treated differently, the powers of exemption/relaxation should be exercisable in respect of 'categories or classes of persons' as contra-distinguished from individuals.

(iv) Before taking any adverse action the party concerned should be given a reasonable opportunity of being heard, and after a decision adversely affecting a party has been taken, that party should have the right of appeal or representation, as the case may be.

(v) In case where an authority is vested with the power to suspend a licence or supplies, pending institution of regular proceedings, a maximum time-limit for suspension should be laid down in the rules.

(vi) The provisions of rules which may make a citizen liable to a penalty should be well-defined, and not vaguely worded.

(vii) In cases of rules relating to disciplinary proceedings, not only the punishing powers of the competent authority should be precisely defined but the procedure to be followed by the competent authority should also be laid down in the rules.

(viii) The conditions of service should be determined through statutory rules and not through executive Orders. The

executive orders are not published in the Gazette and therefore, escape notice of the Committee for scrutiny.

8. The role of the Committee is not confined merely to the legality of the subordinate legislation. The Committee goes far beyond and visualises that the ultimate aim of all legislation (including subordinate or delegated legislation) is the welfare of the public at large. The Committee, therefore, endeavours to ensure that the subordinate legislation framed by the Executive does not transgress the limits laid down in the parent statutes, but also does not offend the cannons of equity and natural justice or result in unnecessary harassment or inconvenience to the general public.

9. I will now like to present to you a glimpse of certain matters about which the Committee felt strongly during the recent past:—

(i) In a number of cases, statutes confer a right on the public to come out with their comments before a piece of subordinate legislation is actually enforced. In such cases it is but reasonable that sufficient time is given to the public to study the proposed rules, regulations, etc. and send their objections/suggestions thereon. With this end in view, the Committee recommended that a period of not less the 30 clear days, exclusive of the time taken in publishing the draft rules in Official Gazette and despatching the Gazette copies to various parts of the country, should be given to the public to offer their comments on such draft rules. Although the Committee made the recommendation to this effect as far back as December, 1956, cases continued to come to the notice where the requirement of minimum 30 clear days' notice to the public, had not been adhered to by Government. In its First Report (Sixth Lok Sabha) prosented to the House on the 16th July, 1977, the Committee noticed 11 such 'Orders' and reiterated its earlier recommendation for strict compliance.

(ii) Where a stotutory law provides a right of appeal to an aggrieved party, it is but fair that such a right is not rendered just illusory in actual practice. In its Second Report (Sixth Lok Sabha) presented to the House on the 18th November, 1977, the Committee recommended for prescribing a reasonable time-limit in the rules for purposes of filing an appeal.

(iii) The Committee has time and again deprecated delay in laying of 'Orders' on the Table of the House. Its Third Report (Sixth Lok Sabha) presented to the House on the 14th December, 1977, the Committee noticed that cases of inordinate delay in laying still continued to occur. Apart from being against the spirit of the parent statutes, such delays precluded Parliament from exercising its statutory right of modification or annulment of rules for unduly long periods. The Committee felt strongly about it and as a remedial measure, it summoned the Secretaries heading the concerned Departments for oral evidence to explain the reasons for delays exceeding six months. This had a salutary effect in minimising delays on this score.

(iv) When an Act provides for the rules to be laid before Parliament, the regulations, bye-laws, etc. framed thereunder should also be subject to the same conditions. With this end in view, the Committee in its Seventh Report (Sixth Lok Sabha) called upon all Ministries/ Departments to review all Acts delegating power to make regulations, etc. with which they were administratively concerned and to incorporate suitable provisions for laying them before Parliament in those Acts which did not contain such provisions.

(v) Cases have also come to the notice of the Committee wherein an 'Order' or any of its provisions is given retrospective effect without an express authorisation to that effect in the parent law. The Parliament in its wisdom may empower subordinate legislation to be operative retrospectively. Without such a law, no subordinate legislation can have any retrospective effect. Even in cases where Government has power to give retrospective effect to subordinate legislation, the Committee recommended that such powers should be exercised only in unavoidable circumstances and should in each case be accompanied by an explanatory note or memorandum affirming that no one was likely to be adversely affected as a result of retrospective effect.

(vi) Several Central Acts dealing with matters enumerated in the 'Concurrent List' as well as the 'Union List' of the Seventh Schedule to the Constitution delegate rule-making power to State Governments. Barring only a

few, these Acts do not contain the usual provisions for laying of 'Orders' framed thereunder by State Governments either before State Legislatures or Parliament. Consequently, all those 'Orders' completely escape legislative scrutiny by the Central or State Committees. The question as to who should scrutinise such rules etc. has been agitating the Committee since 1959. The matter has been raised on the floor of the House time and again. The issue also came up before the Conference of the Chairmen of the Committees on Subordinate Legislation in 1975. The Committee called for the views of all State Legislatures on the subject and also heard oral evidence of the Law Secretary of the Union Government. The Committee went in depth of the matter and dealt with *in extenso* the various legal issues involved and practical difficulties experienced in the process, and embodied its conclusions/observations in an exclusive Report—Twentieth Report (Sixth Lok Sabha)—presented to the House on the 27th April, 1979. The Committee came to the conclusion that such rules should be examined by State Committees.

10. The Lok Sabha Secretariat, which renders all secretarial assistance to the Committee, undertakes the scrutiny of various 'Orders', whether laid on the Table of the House or not, framed in pursuance of the provisions of the Constitution or any statute delegating power to any subordinate authority to make such 'Orders'; culls out important points; obtains comments of concerned administrative Ministries on those points; and then prepares self-contained Memoranda for consideration of the Committee. This does not, however, preclude the Members from examining the 'Orders' and giving suggestions on their own. For this purpose, copies of all 'Orders' which are laid on the Table of the House, are circulated to the Members in convenient batches.

11. The outgoing Committee on Subordinate Legislation (1978-79) held 19 sittings and considered 122 memoranda during the past one year. The Committee presented a record number of 12 Reports in any one year. The Committee wiped out almost all arrears of work for the period 1970—75.

For the first time, the Committee undertook a study tour of the Eastern and North-Eastern region and held informal discussions on common problems with its counterparts in the States at Calcutta, Imphal Agartala and Dispur (Gauhati). The study visit and the

bilateral exchange of views won high appreciation at the hands of the State Committees inasmuch as it enlightened them of their great role and enormous powers in the matter of control and supervision of State activities through the scrutiny of legislation framed under delegated powers. With a view to assessing the increasing importance and the vital role played by the legislative committees in the field of exercising control over delegated legislation in the country, more such opportunities should be availed of by the Committees at the Centre and in the States. The outgoing Committee deserves all praise and appreciation for the enormous efforts it put in. I am sure it will serve as a beacon of light to this Committee.

12. It has been the tradition of the Committee that all its decisions are arrived at unanimously and Party considerations are not allowed to affect its deliberations. This has been developed as a very healthy convention and I hope and trust that it will be kept up by the Members of this Committee too.

13. Before I conclude, I would like to emphasize that in the discharge of our duties, we shall not be acting in hostility to the Executive. Our job is to ensure the implementation of the will of the Parliament as expressed through its statutes and our efforts in this direction should be complementary to that of the Executive.

14. In addition, I would like to add that Committee has also to meet during session periods, apart from meeting in inter-session periods. It is the experience of certain Committees that sometimes due to lack of quorum, Committees had to adjourn. As the task before this Committee is very onerous, I will request the Hon'ble members to find time, in the midst of their other engagements, to attend the sittings of the Committee during session periods, as well, so that there may be no occasion for this Committee to adjourn for want of quorum.

Thank you.

XL

MINUTES OF THE FORTIETH SITTING OF THE COMMITTEE ON SUBORDINATE LEGISLATION (SIXTH LOK SABHA)

(1979-80)

The Committee met on Monday, the 2nd July, 1979 from 11.00 to 13.00 hours.

PRESENT

Shri K. Mallanna—*Chairman*

MEMBERS

2. Shri Yashwant Borole
3. Shri Sarat Kar
4. Shri Lalu Prasad
5. Shri Govind Ram Miri
6. Shri K. S. Narayana
7. Shri Charan Narzary
8. Shri Ram Murti
9. Dr. Bhagwan Dass Rathor
10. Shri Madhav Prasad Tripathi
11. Shri Chandradeo Prasad Verma
12. Shri Ramji Lal Yadav

SECRETARIAT

Shri Y. Sahai—*Chief Legislative Committee Officer.*

Shri S. N. Khanna—*Senior Legislature Committee Officer.*

Members of the Committee on Subordinate Legislation of the West Bengal Legislative Assembly

1. Shri Gopal Basu—*Chairman*
2. Shri Sachin Sen
3. Shri Samar Kumar Rudra
4. Shri Deb Narayan Chakraborty
5. Shri Hazari Biswas
6. Shri Radhika Ranjan Pramanik

7. Shri Aswini Kumar Raj
8. Shri Aurobindo Ghosal
9. Shri Bankim Behari Maity
10. Shri Atish Chandra Sinha

SECRETARIAT

Shri S. Gupta, *Committee Officer.*

2. The Committee first had an informal discussion with the Chairman and Members of the Committee on Subordinate Legislation of the West Bengal Assembly regarding working of the Committee on Subordinate Legislation of Lok Sabha and that of the State Legislature.

(The Committee of West Bengal Assembly then withdrew)

3. The Committee then considered Memoranda Nos. 236 to 244 on the following subjects.

S.No.	Memo. No.	Subject
1.	236	The Andamans, Lakshadweep Harbour Works Assistant Marine Engineer (Flotila) Recruitment Rules, 1975 (G.S.R. 2522 of 1975).
*	*	* * * *
3.	238	The Law Officers (Conditions of Service) Amendment Rules, 1977 (G.S.R. 1319 of 1977).
*	*	* * * *
4.	239	(a) The Border Roads Engineering Service Group 'A' Rules, 1977 (G.S.R. 1554 of 1977).
		(b) The Border Roads Engineering Service Group 'B' Rules, 1977 (G.S.R. 1555 of 1977).
5.	240	The Staff Selection Commission (Group 'C' Posts of Statistical Assistant/Economic Investigator) Recruitment Rules, 1978 (G.S.R. 510 of 1978).
6.	241	Attachment of relevant extracts from original rules to amending rules when laid on the Table.
7.	242	Implementation of recommendation contained in para 70 of the Twentieth Report of the

* Omitted portions of the minutes are not covered by this report

S.No.	Memo. No.	Subject
		Committee on Subordinate Legislation (Fifth Lok Sabha) regarding retrospective effect to the Orders framed by the Ministry of Railways (Railway Board) under Article 309 of the Constitution.
8.	243	Implementation of recommendation contained in para 70 of the Twentieth Report of the Committee on Subordinate Legislation (Fifth Lok Sabha) regarding giving of retrospective effect to the Orders framed by the Ministry of Home Affairs (Department of Personnel and Administrative Reforms) under Article 309 of the Constitution.
9.	244	Implementation of recommendation contained in para 70 of the Twentieth Report of the Committee on Subordinate Legislation (Fifth Lok Sabha) regarding giving of retrospective effect to the Orders framed under Article 309 of the Constitution [The Indian Foreign Service (Recruitment, Cadre, Seniority and Promotion) Amendment Rules, 1973 (G.S.R. 211 of 1973)].

(i) The Andamans, Lakshadweep Harbour Works Assistant Marine Engineer (Floatila) Recruitment Rules, 1975 (G.S.R. 2522 of 1975)—(Memorandum No. 236).

4. The Committee considered the above Memorandum and noted with satisfaction that on being pointed out the Ministry of Shipping and Transport (Transport Wing) have amended Columns 10 and 13 of the schedule appended to the above rules to indicate that Union Public Service Commission would invariably be consulted while making recruitment.

* * * * *

(iii) The Law Officers (Conditions of Service) Amendment Rules, 1977 (G.S.R. 1319 of 1977)—(Memorandum No. 238).

6. The Committee considered the above Memorandum and desired the Ministry of Law, Justice and Company Affairs (Department of Legal Affairs) to amend rule 9 regarding power to relax so as to

*Omitted portions of the minutes are not covered by this Report.

provide for recording of reasons in writing before relaxing any provision of the rules.

(iv) (a) The Border Roads Engineering Service Group 'A' Rules, 1977 (G.S.R. 1554 of 1977);

(b) The Border Roads Engineering Service Group 'B' Rules, 1977 (G.S.R. 1555 of 1977)—(Memorandum No. 239).

7. The Committee considered the above Memorandum and were not convinced with the reply of the Ministry of Shipping and Transport (Transport Wing) for not providing that all matters not provided for in the rules would also be governed by Statutory Rules either by issuing a new set of rules or by amendment of these rules rather than by issue of executive orders. The Committee, accordingly, desired the Ministry to omit rule 12 of (i) the Border Roads Engineering Service Group 'A' Rules, 1977 and (ii) the Border Roads Engineering Service Group 'B' Rules, 1977 and desired them that matters not specifically provided for in the rules regarding appointment of officers to the services should be governed only by statutory rules, whether by way of an amendment to the existing rules or alternatively by framing new rules and not by executive orders.

(v) The Staff Selection Commission (Group 'C' Posts of Statistical Assistant/Economic Investigator) Recruitment Rules, 1978 (G.S.R. 510 of 1978)—(Memorandum 240).

8. The Committee considered the above Memorandum and noted with satisfaction that on being pointed out the Department of Personnel and Administrative Reforms had agreed to delete the words "or post" from rule 5 regarding power to relax in order to confine the relaxation provision of rules to class or category of persons.

(vi) Attachment of relevant extracts from original rules to amending rules when laid on the Table—(Memorandum No. 241).

9. The Committee considered the above Memorandum and expressed their displeasure over the lapse on the part of the Ministry

of Shipping and Transport (Transport Wing) inasmuch as while laying on the Table of the House *ten amending Rules, they did not care to attach the extracts of original Rules inspite of the fact that Committee's previous recommendations on the same subject had been brought to their notice by the Department of Parliamentary Affairs twice—once in 1958 and again in 1976. The Committee were distressed to note that the Ministry had not taken care to give reasons for not following the recommendations of the Committee in this respect. The Committee desired the Ministry to be careful to follow their recommendations scrupulously in future.

(vii) Implementation of recommendation contained in para 70 of the Twentieth Report of the Committee on Subordinate Legislation (Fifth Lok Sabha) regarding retrospective effect to the Orders framed by the Ministry of Railways (Railway Board) under Article 309 of the Constitution—(Memorandum No. 242).

The Committee considered the above Memorandum and noted that the Ministry of Railways (Railway Board) had published the explanatory memorandum to 7 Orders. Regarding remaining 4 Orders, the Committee were inclined to accept the explanation of the Ministry that no purpose would be served in publishing the explanatory memorandum as the amendments involved were of minor character and the Ministry had certified that retrospective effect to the rules did not prejudicially affect the right of any person. The Committee desired the Ministry to be careful in such matters in future.

(viii) Implementation of recommendation contained in para 70 of the Twentieth Report of the Committee on Subordinate Legislation (Fifth Lok Sabha) regarding giving of retrospective effect to the Orders framed by the Ministry of Home Affairs (Department of Personnel and Administrative Reforms) under Article 309 of the Constitution—(Memorandum No. 243).

11. The Committee considered the above Memorandum. In view of the explanation furnished by the Department of Personnel and Administrative Reforms, the Committee reluctantly did not like to pursue the matter any further at this belated stage regarding publication of explanatory memorandum.

* An error

(ix) Implementation of recommendation contained in para 70 of the Twentieth Report of the Committee on Subordinate Legislation (Fifth Lok Sabha) regarding giving of retrospective effect to the Orders framed under Article 309 of the Constitution [The Indian Foreign Service (Recruitment, Cadre, Seniority and Promotion) Amendment Rules, 1973 (G.S.R. 211 of 1973)]—(Memorandum No. 244).

12. The Committee considered the above Memorandum and noted that the Ministry of External Affairs had agreed to publish the Explanatory Memorandum to the rules as a corrigendum. The Committee desired the Ministry to notify the necessary Explanatory Memorandum in the Gazette at an early date. The Committee further desired the Ministry to be careful in such matter in future.

The Committee then adjourned.

ANNEXURE

(*Vide* para 9 of Minutes)

MINISTRY OF SHIPPING AND TRANSPORT (TRANSPORT WING)

List of 'Orders'

S. No.	Name of the 'Order'	Date on which Laid
(1)	(2)	(3)
1.	The Delhi Motor Vehicles (3rd Amendment Rules, 1977 (SECE-3(79)/76-TPT/1783 dt. 18-2-77 (Delhi).	8-8-77
2.	The Board of Trustees of the Port of Madras (Payment of Fees and Allowances to Trustees) Amendment Rules, 1976 (G.S.R. 231/1977).	29-6-77
3.	The Board of Trustees of the Port of Bombay (Payment of Fees and Allowances to Trustees) Amendment Rules, 1976 (G.S.R. 232/1977).	29-6-77
4.	The Board of Trustees of the Board of Calcutta (Payment of Fees and Allowances to Trustees) Amendment Rules, 1977 (G.S.R. 233/1977).	29-6-77
5.	The Board of Trustees of the Port of Madras (Procedure at Board Meetings) Amendment Rules, 1976 (G.S.R. 1480/1976).	29-6-77
6.	The Board of Trustees of the Port of Calcutta (Procedure at Board Meetings) Amendment Rules, 1976 (G.S.R. 1481/1976).	29-6-77
7.	The Shipping Development Fund Committee (General) Amendment Rules, 1976 (G.S.R. 1602/1376).	22-6-77
8.	The Shipping Development Fund Committee (General) (Second Amendment) Rules, 1976 (G.S.R. 388/1977).	22-6-77
9.	The Shipping Development Fund Committee (General) Amendment Rules, 1977 (G.S.R. 389/1977).	1-8-77
10.	The Motor Vehicles (National Permits) Amendment Rules, 1976 (G.S.R. 29/1977).	22-6-77

XLI

MINUTES OF THE FORTY-FIRST SITTING OF THE COMMITTEE ON SUBORDINATE LEGISLATION (SIXTH LOK SABHA) (1979-80)

The Committee met on Friday, the 27th July. 1979 from 15.30 to 16.45 hours.

PRESENT

Shri K. Mallanna—*Chairman*

MEMBERS

2. Shri Yashwant Borole
3. Shri Tarun Gogoi
4. Shri Sarat Kar
5. Shri Lalu Prasad
6. Shri George Mathew
7. Shri Govind Ram Miri
8. Shri K. S. Narayana
9. Shri Charan Narzary
10. Shri Ram Murti
11. Dr. Bhagwan Dass Rathor
12. Shri Madhav Prasad Tripathi
13. Shri Chandradeo Prasad Verma
14. Shri Ramji Lal Yadav

SECRETARIAT

Shri Y. Sahai—*Chief Legislative Committee Officer.*

Shri S. N. Khanna—*Senior Legislative Committee Officer.*

2. The Committee considered their draft Twenty-Second Report and adopted it.

3. The Committee authorised the Chairman and in his absence Shri Yashwant Borole to present the Twenty-Second Report to the House on their behalf on a date convenient to him.

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The Committee then adjourned.

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*Omitted portions are not covered by this Report.

†Twenty-Second Report could not be presented to the Sixth Lok Sabha due to its dissolution on 22nd August, 1979.

I

MINUTES OF THE FIRST SITTING OF THE COMMITTEE ON SUBORDINATE LEGISLATION (SEVENTH LOK SABHA) (1980-81)

The Committee met on Thursday, the 12th June, 1980 from 15.30 to 16.30 hours.

PRESENT

Shri Mool Chand Daga—*Chairman*

MEMBERS

2. Shri Eduardo Faleiro
3. Shri Harish Kumar Gangawar
4. Shri Jaipal Singh Kashyap
5. Shri Balasaheb Vikhe Patil
6. Shri M. Ramanna Rai
7. Shri Ratansinh Rajda
8. Shri Ajit Pratap Singh
9. Shri Chandra Shekhar Singh
10. Shri R. S. Sparrow

SECRETARIAT

Shri Y. Sahai—*Chief Legislative Committee Officer.*

2. The Chairman welcomed the Members of the Committee and explained to them broadly the scope and functions of the Committee (*see* Annexure).

3. The Committee then considered their future programme of work.

4. The Committee decided that the next sitting might be held in the first week of July, 1980 and another sitting might be held in the third week of August, 1980. However, the actual dates for fixing the sittings were left to be determined by the Chairman.

The Committee then adjourned.

ANNEXURE

(*Vide* para 2 of the minutes)

ADDRESS BY THE CHAIRMAN TO THE MEMBERS OF THE COMMITTEE ON SUBORDINATE LEGISLATION (1980-81)

(12th June, 1980)

Dear friends,

It is my pleasure to welcome you all to this first sitting of the Committee on Subordinate Legislation of Seventh Lok Sabha.

2. Against the background of a Welfare State, the functions of the Government are fast changing in their range and sweep. Hardly is there any sphere of life where we may not find the imprint of the State endeavour to better the lot of the common man. Proportional is the increase in the legislative activities of Parliament extending to pastures new often involving matters of extreme complexity. In addition, Parliament has to exercise a constant check on the activities of the executive to keep them ever vigilant to meet the unforseen challenges as well as to implement the planned programmes.

3. We have reached the stage when it has become imperative to lighten the load of legislative machinery. This can only be done if a number of details of essentially subsidiary or procedural character are withdrawn from the floors of both the Houses of Parliament and more time is made available for discussion on major issues of public concern. Even otherwise Parliament cannot provide remedies for each and every eventuality. Local conditions are sometimes extremely important which are better known to the people on the spot and may not be known to Parliament. The matters to be dealt with may require technical knowledge. In such circumstances, delegation of legislative powers to the executives becomes 'inevitable and 'indispensable' in spite of the fact that it has certain inherent risks especially when the Parliamentary statute tends to be skeletal containing general principles leaving the details to be worked out by the executive. There is, otherwise, the possibility that the power delegated may not be concisely or precisely defined and executive may tend to stretch it to such limits as might not have been the intention of Parliament or the delegated powers may be so defined

that the areas they are intended to cover may not be clearly known. Moreover, the justification and advantage of delegated legislation arise from its speed, flexibility and adaptability. Once the principles have been prescribed by Parliament, matters of detail within the limits of such principles can be worked out by the executive. As Parliament is the fountain head of the delegation of powers to the executive, it becomes its duty to ensure that the powers delegated are not abused. This can only be done by a Committee of the House like ours. Our primary function is to check the assumption of arbitrary powers by the executives through the rules framed by them in exercise of delegated powers. It has always been the endeavour of the Committee to ensure that all rules/regulations etc., framed under the delegated authority are laid before each House of Parliament so that each House in its supervisory capacity, if it so likes, amend or modify the rules or even annul them. The Committee on Subordinate Legislation has approved the following provision for incorporation in Bills providing for delegation of rule making power:

> "Every rule made by the Central Government under this Act shall be laid, as soon as may be after it is made, before each House of Parliament, while it is in session, for a total period of thirty days which may be comprised in one session or in two or more successive sessions, and if, before the expiry of the session immediately following the session or the successive sessions aforesaid, both Houses agree in making any modification to the rule or both Houses agree that the rule should not be made, the rule shall thereafter have effect only in such modified form or be of no effect, as the case may be; so, however, that any such modification or annulment shall be without prejudice to the validity of anything previously done under that rule."

4. Each and every Bill introduced in Lok Sabha or transmitted by Rajya Sabha is scrutinised by the Committee to ensure that it contains the requisite provision for laying and modification of rules on the lines approved by the Committee. In their 14th Report (Fifth Lok Sabha) the Committee went a step further by recommending that the provision for amending and modification of rule should be incorporated even in old Acts providing for delegation of such rule making power, which did not contain such a provision. Direction 103 of the Directions by the Speaker provides that the Speaker may also refer any Bill containing provisions for delegation of legislative powers to the Committee. When such a reference is made, the Committee examines the extent of power sought to be delegated or where powers are sought to be delegated to State Governments or other authorities or bringing into operation any subsidiary provisions or to

make any further rules/regulations, the necessity for such delegation as well as the extent and manner in which such power shall be exercised by the subordinate authority. If the Committee finds that the provisions in the Bill delegating legislative powers should be dropped wholly or partly or should be amended, in any respect, it may make its report to the House before the Bill is taken up for consideration.

5. The principles which form the basis of the examination of 'Order' by the Committee are broadly defined in Rule 320 of the Rules of Procedure and Conduct of Business in Lok Sabha. Moreover, the Committee has over the years further evolved some guiding principles. To mention some of these:—

(i) A well-known maxim is that no fee can be levied under a rule unless the parent statute expressly authorises therefor. The Committee, however, often came across cases where fees had been levied under the rules without an express authorisation therefor in the parent law. The Committee has invariably insisted for the deletion of such provisions or alternatively desired Government to obtain an express power in this behalf from the Parliament through an amendment of the relevant Act.

(ii) Often it becomes necessary in compliance with the provisions of the law, that the power of search and seizure is vested in the Executive. In such cases, the Committee has been insisting not only on specifying the minimum rank of the Government officer empowered to exercise such a power but also on providing of safeguards like presence of witnesses, preparation of inventories and giving a copy thereof to the persons concerned.

(iii) Another maxim is that a delegate cannot sub-delegate his legislative power unless there is an express authorisation to that effect in the parent law.

When new problems arise, the Committee has to think of appropriate solutions of such problems and evolve some new guidelines and this is a continuous process.

The root cause of abuse of subordinate or delegated legislation lies in unfettered, unguided discretionary powers conferred on the Executive. The primary function of the Committee, therefore, is to ensure that adequate safeguards are provided in the rule itself against the probable abuse of such powers. The Committee had in the past made valuable recommendations to this end. Some of the

broad principles underlying those recommendations can be summed up as follows:—

(i) As far as possible, guidelines/criteria to be followed by the authority vested with the discretionary powers should be laid down in the rules.

(ii) In cases where the authority concerned deviates from a norm, it should be required to record in writing the reasons for such deviation.

(iii) In order that the persons similarly placed are not treated differently, the powers of exemption/relaxation should be exercisable in respect of 'categories or classes of persons' as contradistinguished from individuals.

(iv) Before taking any adverse action the party concerned should be given a reasonable opportunity of being heard, and after a decision adversely affecting a party has been taken, that party should have the right of appeal or representation, as the case may be.

(v) In case where an authority is vested with the power to suspend a licence or supplies, pending institution of regular proceedings, a maximum time-limit for suspension should be laid down in the rules.

(vi) The provisions of rules which may make a citizen liable to a penalty should be well-defined, and not vaguely worded.

(vii) In case of rules relating to disciplinary proceedings, not only the punishing powers of the competent authority should be precisely defined but the procedure to be allowed by the competent authority should also be laid down in the rules.

(viii) The conditions of service should be determined through statutory rules and not through executive Orders. The executive Orders are not published in the Gazette and therefore, escape notice of the Committee for scrutiny.

The role of the Committee is not confined merely to the legality of the subordinate legislation. The Committee goes far beyond and emphasises that the ultimate aim of all legislation (including subordinate or delegated legislation) is the welfare of the public at large. The Committee, therefore, endeavours to ensure that the subordinate legislation framed by the Executive does not transgress the limits laid down in the parent statutes, but also does not offend the canons

of equity and natural justice or result in unnecessary harassment or inconvenience to the general public.

7. I will now like to present to you a glimpse of certain matters about which the Committee felt strongly during the recent past:—

(i) In a number of cases, statutes confer a right on the public to come out with their comments before a piece of subordinate legislation is actually enforced. In such cases it is but reasonable that sufficient time is given to the public to study the proposed rules, regulations, etc. and to send their objections/suggestions thereon. With this end in view, the Committee recommended that a period of not less than 30 clear days, exclusive of the time taken in publishing the draft rules in Official Gazette and despatching the Gazette copies to various parts of the country, should be given to the public to offer their comments on such draft rules.

Although the Committee made the recommendation to the effect as far back as December, 1956, cases continued to come to the notice where the requirement of minimum 30 clear days' notice to the public, had not been adhered to by Government. In its First Report (Sixth Lok Sabha) presented to the House on the 16th July, 1977, the Committee noticed 11 such 'Orders' and reiterated its earlier recommendation for strict compliance.

(ii) Where a statutory law provides a right of appeal to an aggrieved party, it is but fair that such a right is not rendered just illusory in actual practice. In its Second Report (Sixth Lok Sabha) presented to the House on the 18th November, 1977, the Committee recommended for prescribing a reasonable time-limit in the rules for purposes of filing an appeal.

(iii) The Committee has time and again deprecated delay in laying of 'Orders' on the Table of the House. In its Third Report (Sixth Lok Sabha) presented to the House on the 14th December, 1977, the Committee noticed that cases of inordinate delay in laying still continued to occur. Apart from being against the spirit of the parent statutes, such delays precluded Parliament from exercising its statutory right of modification or annulment of rules for unduly long periods. The Committee felt strongly about it and as a remedial measure, it summoned the Secretaries heading the concerned Departments for oral evidence to explain

the reasons for delays exceeding six months. This had a salutary effect in minimising delays on this score.

(iv) When an Act provides for the rules to be laid before Parliament, the regulations, bye-laws, etc. framed thereunder should also be subject to the same conditions. With this end in view, the Committee in its Seventh Report (Sixth Lok Sabha) called upon all Ministries/Departments to review all Acts delegating power to make regulations, etc. with which they were administratively concerned and to incorporate suitable provisions for laying them before Parliament in those Acts which did not contain such provisions.

(v) Cases have also come to the notice of the Committee wherein an 'Orders' or any of its provisions is given retrospective effect without an express authorisation to that effect in the parent law. The Parliament in its wisdom may empower subordinate legislation to be operative retrospectively. Without such a law, no subordinate legislation can have any retrospective effect. Even in cases where Government has power to give retrospective effect to subordinate legislation, the Committee recommended that such powers, should be exercised only in unavoidable circumstances and should in each case be accompanied by an explanatory note or memorandum affirming that no one was likely to be adversely affected as a result of retrospective effect.

(vi) Several Central Acts dealing with matters enumerated in the 'Concurrent List' as well as the 'Union List' of the Seventh Schedule to the Constitution delegate rule-making power to State Governments. Barring only a few, these Acts do not contain the usual provisions for laying of 'Orders' framed thereunder by State Governments either before State Legislatures or Parliament. Consequently, all those 'Orders' completely escape legislative scrutiny by the Central or State Committees. The question as to who should scrutinise such rules etc. had been agitating the Committee since 1959. The matter was raised on the floor of the House time and again. The issue also came up before the Conference of the Chairmen of the Committees on Subordinate Legislation in 1975. The Committee called for the views of all State Legislatures on the subject and also heard oral evidence of the Law Secretary of the Union Government. The Committee went in depth of the matter

and dealt with *in extenso* the various legal issues involved and practical difficulties experienced in the process, and embodied its conclusions/observations in an exclusive Report—Twentieth Report (Sixth Lok Sabha)—presented to the House on the 27th April, 1979. The Committee came to the conclusion that such rules should be examined by State Committees.

8. The Lok Sabha Secretariat, which renders all secretarial assistance to the Committee, undertakes the scrutiny of various 'Orders', whether laid on the Table of the House or not, framed in pursuance of the provisions of the Constitution or any statute delegating power to any subordinate authority to make such 'Orders'; culls out important points; obtains comments of concerned administrative Ministries on those points; and then prepares self-contained Memoranda for consideration of the Committee. This does not, however, preclude the Members from examining the 'Orders' and giving suggestions on their own. For this purpose, copies of all 'Orders' which are laid on the Table of the House, are circulated to the Members in convenient batches.

9. It has been the tradition of the Committee that all its decisions are arrived at unanimously and Party considerations are not allowed to affect its deliberations. This has been developed as a very healthy convention and I hope and trust that it will be kept by the Members of this Committee too.

10 Before I conclude, I would like to emphasise that in the discharge of our duties, we shall not be acting in hostility to the Executive. Our job is to ensure the implementation of the will of the Parliament as expressed through its statutes and our efforts in this direction should be complementary to that of the Executive.

Thank you.

II

MINUTES OF THE SECOND SITTING OF THE COMMITTEE ON SUBORDINATE LEGISLATION (SEVENTH LOK SABHA) (1980-81)

The Committee met on Wednesday, the 9th July, 1980 from 15.30 to 16.00 hours.

PRESENT

Shri Mool Chand Daga—*Chairman*

MEMBERS

2. Shri M. Ankineedu
3. Shri Eduardo Faleiro
4. Shri Jaipal Singh Kashyap
5. Shri T. Nagaratnam
6. Shri Balasaheb Vikhe Patil
7. Shri Ajit Pratap Singh
8. Shri Chandra Shekhar Singh
9. Shri R. S. Sparrow

SECRETARIAT

Shri H. L. Malhotra—*Senior Legislative Committee Officer.*

2. The Committee considered their draft First Report and adopted it.

3. The Committee authorised the Chairman and, in his absence, Shri R. S. Sparrow to present the First Report to the House on their behalf on the *14th July, 1980.

4. The Committee then decided that their next sittings might be held on the 27th and 28th August, 1980.

The Committee then adjourned.

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*The Report could not be presented to the House on the 14th July, 1980 as the House adjourned without transacting any business for the day due to the death of a sitting Member of the House, (Shri Dinesh Bhattacharya). The Report was therefore, presented on the next day i.e. 15th July, 1980.